

STATE OF MICHIGAN  
COURT OF APPEALS

---

UNPUBLISHED

March 17, 2011

In the Matter of HEROY, Minors.

No. 299655  
Shiawassee Circuit Court  
Family Division  
LC No. 07-012036-NA

---

Before: SHAPIRO, P.J., and HOEKSTRA and TALBOT, JJ.

PER CURIAM.

M. Romine appeals as of right from the order terminating her parental rights to the two minor children in accordance with MCL 712A.19b(3)(c)(i) [conditions leading to the adjudication continue to exist] and (g) [failure to provide proper care or custody], following her entry of a no contest plea. We affirm.

The children were initially removed from Romine's custody in 2007. Although the children were returned to Romine's custody in March 2009, they were again removed three months later because of safety concerns. A supplemental petition for termination of Romine's parental rights was filed in April 2010. Romine tendered a no contest plea to the petition. Based on the plea and the results of Romine's psychological evaluation, the trial court accepted the plea and terminated her parental rights. Romine now contends that the trial court erred in accepting her plea because it was not knowingly and understandingly made.

Because Romine did not preserve this issue by raising it in an appropriate motion in the trial court<sup>1</sup>, "review is limited to determining whether a plain error occurred that affected substantial rights."<sup>2</sup>

A plea to a petition filed under MCL 712A.2(b) must be understanding, voluntary, and accurate.<sup>3</sup> A plea is deemed to be understandingly made if the respondent is advised of the

---

<sup>1</sup> See *In re Zelzack*, 180 Mich App 117, 126; 446 NW2d 588 (1989); *In re Baby Girl Fletcher*, 76 Mich App 219, 221; 256 NW2d 444 (1977).

<sup>2</sup> *In re Egbert R Smith Trust*, 274 Mich App 283, 285; 731 NW2d 810 (2007).

<sup>3</sup> MCR 3.971(C).

information and rights set forth in MCR 3.971(B). A plea is deemed to be voluntary if the court is satisfied “that the plea is knowingly, understandingly, and voluntarily made.”<sup>4</sup> While there are no established guidelines for a plea to a supplemental petition filed under MCL 712A.19b(3), there is nothing in the record to suggest that Romine’s plea was not knowingly and understandingly made.

Romine was advised that the court would accept her plea in lieu of a contested hearing on the supplemental petition for termination. The court advised Romine of the rights she would have at a contested hearing and Romine repeatedly and affirmatively indicated that she understood her rights. Romine’s counsel attested that he had engaged in prolonged discussions with her regarding the termination of her parental rights and the purpose of the court proceedings. Based on these discussions, Romine’s attorney represented to the court that Romine “recognizes the limitations that she has . . . and ultimately believes . . . [the] long range best interest of the children would be satisfied as we’re proceeding today.”

There is nothing in the record to suggest that Romine failed to comprehend the purpose or consequences of her plea and she does not contend on appeal that she did not in fact understand the nature of the proceedings. Romine contends only that in light of evidence of her limited cognitive ability as documented in the psychological evaluation report, she might not have understood the nature of the proceedings. The evaluation indicated that Romine had intellectual limitations that caused her to struggle to understand and process new information, which adversely affected “her social and emotional functioning as well as” her problem-solving ability. There is nothing in the record to indicate that Romine’s cognitive limitations rendered her unable to understand that tendering a plea in lieu of a contested hearing on the supplemental petition for termination would result in termination of her parental rights. Even if such an inference could be drawn, there is nothing to indicate that Romine was incapable of disclosing her lack of understanding and requesting clarification rather than answering in the affirmative when asked if she understood the questions posed to her by the trial court. Given that Romine consented to termination of her parental rights after discussing the matter with her counsel, that she responded appropriately to the trial court’s questions, and that she never said anything to suggest that she did not understand the reason for the proceedings, the record fails to support Romine’s contention that the trial court had reason to believe that she did not in fact understand her rights or the nature of the proceeding such that the trial court should have concluded that Romine’s plea was not knowing and understanding when made.

---

<sup>4</sup> MCR 3.971(C)(1).

We reject Romine's allegation of error and find that she is not entitled to the relief requested.

Affirmed.

/s/ Douglas B. Shapiro

/s/ Joel P. Hoekstra

/s/ Michael J. Talbot